

REMARKS

Applicant thanks the Examiner for the consideration given the present application. Claims 1-6 and 8-20 remain in the application and claims 1, 18 and 20 are independent. The Office Action dated February 17, 2011 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Reconsideration and allowance of the present application are respectfully requested in view of the following arguments.

Claim Rejections — 35 U.S.C. § 103

Claims 1, 4-6, 8-11 and 13-20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Margulis in view of Hsu and U.S. Pat. No. 6,574,266 to Haartsen. Applicant submits the Examiner has failed to establish a *prima facie* case of obviousness and respectfully traverses the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. See MPEP § 706.02(i) and MPEP §§ 2141-2144.

Applicant respectfully submits that this combination of elements as set forth in independent claims 1, 18 and 20 is not disclosed or made obvious by the prior art of record, including Margulis, Hsu and Haartsen.

The claims are directed to features of a wireless terminal, a method for controlling a wireless terminal and a computer-readable medium encoded with executable instructions for controlling a wireless terminal. A feature of an embodiment of the invention in these claims is directed to means for communication between the wireless terminal and a base device. In a feature of the invention:

- (1) The wireless terminal communicates with the base device by using a plurality of transmission channels; and
- (2) The base device selects each one of the plurality of transmission channels in every cycle.

More specifically, the wireless terminal switches transmission channels (i) every cycle corresponding to at least a period during which the base device selects each one of the plurality of transmission channels, and (ii) every cycle corresponding to a period during which the base

device selects each one of the plurality of transmission channels and which only corresponds to time in which the wireless terminal maintains one of the transmission channels.

The Examiner admits at the top of page 3 of the Office Action that “neither Margulis nor Hsu teach” these features. In an attempt to address the transmission channel switching, the Examiner refers on page 3 to Haartsen at column 7, lines 34-48, for portable terminals switching to a new channel to establish direct communication. The Examiner also refers on page 3 to column 2, lines 14-17, of Haartsen for the feature of the transmission channels comprise a number of communication channels for communication between a base device and the wireless terminal.

With all due respect, Haartsen does not show or suggest these features.

More specifically, the rejection alleges that the features recited in the last paragraph of each of the pending independent claims (a plurality of transmission channels for communication between the wireless terminal and the base device and the specific switching process over every cycle) is taught by Haartsen at (i) column 7, lines 34 to 48, and (ii) column 2, lines 14 to 17, at the bottom of page 3 of the Office Action.

Applicant respectfully asserts none of these portions (nor any portion) of Haartsen state what is alleged. In order to establish a *prima facie* case of obviousness, the prior art references must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 82 USPQ2d 1385, 1395 (2007) (citing *In Re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)).

Lines 34 to 48 of column 7 merely indicate the central base station determines the channel to be used based on a fixed channel plan, adaptive channel allocation measurements, or random channel selection based on what “channels are attractive to use.” When a terminal wants to communicate with another terminal, the initiating terminal sends a request for a set up to the base station. The base station, which received the request, informs both the terminal and the another terminal as to “the channel (and perhaps the timing) to use.” (emphasis added) Thus, Haartsen indicates the one channel, not a plurality of channels. This portion of Haartsen clearly does not state or suggest (1) the wireless terminal communicates with the base device by using a

plurality of transmission channels; and (2) the base device selects each one of the plurality of transmission channels in every cycle.

Lines 14 to 17 of column 2 merely indicate that a base station handles a plurality of traffic channels. Thus, by means of a traffic channel transceiver, the base station uses the number of transmission channels for sending audio data, facsimile data, video data, or other data. This portion of Haartsen clearly does not state or suggest (1) the wireless terminal communicates with the base device by using a plurality of transmission channels; and (2) the base device selects each one of the plurality of transmission channels in every cycle.

Thus, Haartsen merely describes that “when a terminal wants to communicate with another terminal, the base station informs the terminals of the channel to use”, and “the base station uses the number of transmission channels”, but Haartsen fails to show or suggest that “the wireless terminal switches the transmission channels (i) every cycle corresponding to not less than a period during which the base device selects all the transmission channels, and (ii) every cycle corresponding to a period during which the base device selects all the transmission channels and which corresponds to time in which the wireless terminal maintains one of the transmission channels” as recited in each of the independent claims.

Applicant wishes to note that the Examiner is now rejecting claim language that existed before the most recent amendment. Claim 1 **now** requires the wireless terminal “switches transmission channels **(i) every cycle** corresponding to at least a period during which the base device selects each one of the plurality of transmission channels, **and** (ii) every cycle corresponding to a period during which the base device selects each one of the plurality of transmission channels and which **only** corresponds to time in which the wireless terminal maintains one of the transmission channels.” (emphasis added) Claims 18 and 20 have been similarly amended.

Applicant again respectfully submits that Haartsen fails to show or suggest such wireless terminal switching cycles.

Haartsen merely indicates that which was already known and conventional, which is that a base station in a conventional wireless system handles a plurality of traffic channels and controls channels for communication between the portable terminals 140 and the base station BS. Applicant does not dispute Haartsen’s description of conventional wireless systems. But that is not what is recited in the claims at issue. Nowhere in column 2 of Haartsen does the reference

show or suggest the wireless terminal “switches transmission channels (i) every cycle corresponding to at least a period during which the base device selects each one of the plurality of transmission channels, and (ii) every cycle corresponding to a period during which the base device selects each one of the plurality of transmission channels and which only corresponds to time in which the wireless terminal maintains one of the transmission channels.”

Haartsen indicates in column 7 that the base station may use either fixed or adaptive channel allocation, or even a random channel selection. But when “a terminal wants to communicate with another terminal, the initiating terminal sends a request for a setup to the base station it is currently locked to. This base station then informs the terminal to be connected of this request, and this base station informs both terminals of the channel (and perhaps the timing) to use for the connection. The terminals then switch to the new channel and establish a connection.” But again, that is not what is recited in the claims at issue. Nowhere in column 7 of Haartsen does the reference show or suggest the wireless terminal “switches transmission channels (i) every cycle corresponding to at least a period during which the base device selects each one of the plurality of transmission channels, and (ii) every cycle corresponding to a period during which the base device selects each one of the plurality of transmission channels and which only corresponds to time in which the wireless terminal maintains one of the transmission channels.”

The balance of Haartsen is directed to the manner in which a base station facilitates establishment of communication between portable terminals using any of a number of conventional spread spectrum communication systems, such as frequency hopping. But none of the systems discussed show or suggest the wireless terminal “switches transmission channels (i) every cycle corresponding to at least a period during which the base device selects each one of the plurality of transmission channels, and (ii) every cycle corresponding to a period during which the base device selects each one of the plurality of transmission channels and which only corresponds to time in which the wireless terminal maintains one of the transmission channels.”

Applicant respectfully submits that the combination of elements as set forth in independent claims 1, 18 and 20 is not disclosed or made obvious by the prior art of record, including Margulis, Hsu and Haartsen, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

With regard to dependent claims 4-6, 8-11, 13-17 and 19, Applicant submits that claims 4-6,

8-11, 13-17 and 19 depend, either directly or indirectly, from independent claim 1 which is allowable for the reasons set forth above, and therefore claims 4-6, 8-11, 13-17 and 19 are allowable based on their dependence from claim 1. Reconsideration and allowance thereof are respectfully requested.

Claim 2 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Margulis, Hsu and Haartsen, and further in view of Forler. This rejection, insofar as it is applicable to these claims, is respectfully traversed. Forler was cited to show a viewer blocking system that permits access to a channel or maintains the channel as unblocked, as described in column 6. Forler fails to show or suggest communication between a base device and a wireless terminal wherein the wireless terminal switches the transmission channels (i) every cycle corresponding to not less than a period during which the base device selects each one of the plurality of transmission channels, and (ii) every cycle corresponding to a period during which the base device selects each one of the plurality of transmission channels and which only corresponds to time in which the wireless terminal maintains one of the transmission channels, and therefore fails to remedy the defects of Margulis, Hsu and Haartsen, discussed above. Reconsideration and withdrawal of this rejection are respectfully requested.

Claims 3 and 12 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Margulis, Hsu, and Haartsen, and further in view of Sano. This rejection is also respectfully traversed. Sano was cited for a LAN radio system which can display reception quality based on field intensity. Sano fails to show or suggest communication between a base device and a wireless terminal wherein the wireless terminal switches the transmission channels (i) every cycle corresponding to not less than a period during which the base device selects each one of the plurality of transmission channels, and (ii) every cycle corresponding to a period during which the base device selects each one of the plurality of transmission channels and which only corresponds to time in which the wireless terminal maintains one of the transmission channels, and therefore cannot remedy the defects of Margulis, Hsu, and Haartsen, discussed above. Reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance.

Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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